1939-41 **File No.** 3271/36

A CLASS P.W. **DEPARTMENT**
E **BRANCH**

Subject:— Provident Funds
Memorandum explanatory of
Govt. Vis-a-Vis the law on
the subject.

A[K] 41

File No. 3271/36 - E

Ltd, Scott. Slip. 94 A.

Std. Sectt. 78A o.

G.R., G D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET (B)

Subject :—

File No. 3271/36

P.W DEPT.

E BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

(Below copy of aletter from the Government of India Finance Department, No.F21(1)-R-II-41,dated the 8th July 1941 and its accompaniments).

No.1575/34-D.

Political And& Services Department.

Bombay Castle. 17th September. 1941.

Forwarded to the undermentioned officers and Departments for information in continuation of Government endorsement No. 2575/34-D,dated the 19th January 1939.

By order of the Governor,of Bombay.

V.H. VACHHRAJANI,-

for Chief Secretary to the Government of Bombay,
Political and Services Department-

To:-

The Secretary to the Governor,

The Accountant General,Bombay,

The Secretary,Bombay,Sind Public Service Commission,

All Department of the Secretariat.

All Heads of Departments under theSeveral Department of the Secretariat.

Copy of a letter from the Government of India,Finance Department,No.F.21(1)-R-II 41, dated the 8th July 1941.

Subject:-Question whether with reference to insurance policies financed from Providents Funds,it is permissible to mention not only the subscriber's wife,but any other member of his family, as a 'joint tenant' in the 'joint tenant' assignment form'.

I am directed to forwarded for information and guidance a copy of the undernoted correspondence on the subject mentioned above:-

1. Letter from the Government of Madras,No.18069-Fem-4, dated the 6th July 1939.

2. Letter to the Government of Madras,No. F.21(5)-RII/39, dated the 9th August 1939.

3. Letter from the Government of Madras,No.18069-Fem-6,

dated the 9th September 1939.

4. Letter to the Government of Madras, No.F.21(5)R.II/39, dated the 23rd Sept 1939.

5. Letter from the Government of Madras, No.12340-Pen-I, dated the 22nd April 1941.

6. Letter to the Government of Madras, No.F.21(1)-RII/41, dated the 8th July 1941.

Copy of letter No. 18069-Pen.4, dated the 8th July 1939, from Deputy Secretary to the Government of Madras, Finance Department to the Secretary to the Government of India, Finance Department, Simla.

Subject:-Provident Fund Rules-Insurance Policies financed from Provident Funds-Nature and extend of the assignments on behalf of minors.

I am directed to invite a reference to paragraph 13 of the Memorandum explanatory of Government Provident Fund Rules vis a -vis the law on the subject herewith forwarded with the Government of India, Finance Department, Letter No.F. 22(13) R-II/38, dated the 19th November 1938 and to state that a subscriber, in assigning the policy to the Government in accordance with the procedure prescribed in sub paragraph 4 thereof, desires to mention his son as the beneficiary, i.e., as a 'joint tenant'. The procedure outlined in the sub-paragraph permits the execution of an assignment in favour of the subscribber and his wife as joint tenant and a doubt has arisen whether any person other than the subscriber's wife e.g., a son or a daughter may be mentioned as 'joint tenant' The reference to 'wife', it is presumed, is only illustrative, and if so it would seem that any member of a subscriber's family may be mentioned as a joint tenant. This view appears to be further supported by the word s in brackets"(here state relationship and name)" in the 'joint tenant' assignment form. If it is held that the son can be a joint tenant along with the father the further question arises whether on behalf of the minor son who is not legally competent to assign the policy the father can assign the policy to the Government as the natural guardian in Form(2) of the Third Schedule to the Provident fund Rules. In view of the provisions in section 6(1) of the Married Women's Property.....

married women's property Act, 1874, it seems to this Government that in the case of a policy expressed on the face of it to be for the benifit of the 'wife and children' or any of them the husband or the father as the natural guardian of his minor wife or child is not competent to execute an assignment in favour of Government. Reference is in this connection invited to the sentence 'But as in most cases the children are minors, such an assignment is practically impossible' occuring in the second sub-paragraph of paragraph 9 of the Memorandum quoted above.

I am to request that, if there is no objection, this Government may be informed whether the views of this Government on the two points noted are correct.

Copy of letter No. F. 21(5)-RII/39, dated the 9th August 1939 from the Under Secretary to the Government of Madras, Finance Department.

Subject:- Provident Fund Rules-Insurance policies financed from Provident Funds-Nature and extent of the assignments on behalf of minors.

I am directed to refer to your letter No. 18069-Pen-4, dated the 8th July 1939, on the subject mentioned above. As regards the first question raised, I am to say that so far as the General Provident Fund (Central Services) Rules are concerned, there would be no objection to a subscriber mentioning a member of his family other than his wife, e.g. his son or daughter, as the 'joint tenant' in the 'joint tenant' assignment form, provided the son or daughter has attained his /her legal majority. The Government of India would be opposed to the mention of a minor child since it might lead to complications about minorities and other difficulties. For the same reason, the Government of Madras might consider it as well not to allow a minor child to be mentioned in the 'joint tenant' assignment ~~forms~~ form under their Provident Fund Rules, and if they decide accordingly, it becomes unnecessary to consider the second

Copy of letter No. 18069-Pen-6,dated the 9th September 1939,from the Deputy Secretary to the Government of Madras Finance (Pension) Department, to the Secretary to the Government of India,Finance Department,Simla.

Subject:-Provident Fund Rules-Insurance policies financed from Provident Funds-Nature and extent of the assignments on behalf of minors-Minor wife-Letter from the Government of India,Finance Deptt. No.F.21(5)-RII/39,dated the 9th August 1939.

I am directed to invite a reference to the letter cited and to enquire whether a minor wife may be mentioned as a joint tenant in the 'joint tenant' assignment form.The reasen against mentioning a minor son or daughter as joint tenants would seem to hold good also in the case of a minor wife but it is not known whether the Government of India intended any distinction in the matter.I am to request therefore, that if there is no objection, this Government may be informed of the correct position on the point raised above.

Copy of letter No.F 21(5)-RII/39, dated the 23rd September 1939,from the Under Secretary to the Government of India,Finance Department, to the Deputy Secretary to the Government of Madras,Finance Department.

Subject:-Provident Fund Rules-Insurance policies financed from Provident Funds -Nature and extent of the assignment on behalf of minors-minor wife.

In reply to your letter No.18069 -Pen-6,dated the 9th September 1939, on the subject mentioned above,I am directed to say that as presumed therein, the reasen against mentioning a minor son or daughter as a joint tenant holds good in the case of a minor wife also.

Copy of leter No.12340-Pen-I 22nd April 1941,from the Deputy Secretary to the Government of Madras,Finance Department, to the Secretary to the Government of India,Finance Department, to the Secretary to the Government of India,Finance Department,New Delhi.

Subject:-Procedure for assignment and xxxxxxxxx reassignment of like insurance policeies financedfrom Provident funds.-

I am directed to invite a reference to the Government of India, Finance Department, letter No.F.21(8)-RII/37,dated the 16th August 1937,to all Accounts Officers on the above subject and to state as follows..

contd....

follows:-

A subscriber, who has taken out a policy on his own life for the benefit of his family, has assigned the policy to himself and to his two major sons in the form specified in the letter cited and all the three have joined in a subsequent assignment of the policy in favour of His Excellency the Governor of Madras. The Accountant General, Madras, states that the form of assignment prescribed appears to contemplate the inclusion in the assignment of only one member of the family besides, the the assured and holds the view that the inclusion of more than one member of the family as joint tenant is not permissible. In support of his view, the Accountant-General has referred to Note 2 under Rule No.21 of the old General Provident Fund Rules, which definitely prohibited assignment of a policy for the benifit of more than one beneficiary "in view of the attendant legal difficulties". It seems to this Government that the assignment in favour of the Government by the subscriber and two others is on exactly the same foot as an assignment by the subscriber and two one other persons and that the form prescribed by the Government of India may easily be adopted for this purpose, viz, for an assignment in favour of the insurer and two or more other persons. In view, however, of the terms of Note 2 to old rule 21 (ii) referred to by the Accountant General, I am to request that if there is no objection, this Government may be informed whether there is any objection to the course adopted by the suberiber mentioned above..

Copy of a letter from the Government of India, Finance Department No.F.21,(1)-R.II/41, dated the 8th July 1941.

Subject:-Procedure for assignment and re-assignment of life insurance policies financed from Provident Funds.

With reference to your letter No.12340-Pen-1 dated the 22nd April 1941, on the subject noted above, I am directed to say

to say that the Government of India see no objection to the course adopted by the subscriber in question and described in your letter. ~~In such to the course adopted by the suberiber in question and described in your letter.~~ In such a case, 'joint tenant' assignment form would need to be altered as follows:-

a) for the word 'survivor', substitute the words 'surviver or survivors'

b) for the words ' on the death of either', substitute the words 'on the death of one or more of us' and

c) for the words 'receipt of the subscriber', substitue the words 'receipt of the survivors or surviver.'

MMaridas